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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,946	07/07/2003	Norbert Fassler	P68969US0	6640

7590 07/27/2005  
JACOBSON, PRICE, HOLMAN & STERN  
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400 Seventh Street, N.W.  
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EXAMINER
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PICO, ERIC E

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/612,946	<b>Applicant(s)</b> FASSLER, NORBERT	
	<b>Examiner</b> Eric Pico	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07/07/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/01/2003</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment in that the locking element 6 is arranged on the platform 1 and the locking unit 3 is arranged on at least one of the guides, as well as the actuating element provided for actuating the opening element arranged in such a way that the operator can actuate this actuating element from a safety area must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

2. Claim 1-26 objected to because of the following informalities: The word characterized is improperly spelled in claims 1-26. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the embodiment can operate with the locking element arranged on the platform and the locking unit arranged on at least one of the guides.
4. Regarding claim 10, the phrase "e.g. (exempli gratia)" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
5. Regarding claims 10 and 13, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).
6. Claim 8 recites the limitation "the notch" in Claim 8, Line 2. There is insufficient antecedent basis for this limitation in the claim.

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7. Claim 13 recites the limitation "the power element" in Claim 13, Line 2. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 14 recites the limitation "the opening element" in Claim 14, Line 3. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 15 recites the limitation "the opening element" in Claim 15, Lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 16 recites the limitation "the cable" in Claim 16, Line 3. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 17 recites the limitation "the cable" in Claim 17, Lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 18 recites the limitation "the opening element" in Claim 18, Lines 8-9 and "the cable" in Claim 18, Line 12. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 19 recites the limitation "the cable" in Claim 19, Lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 20 recites the limitation "the opening element" in Claim 20, Lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 21 recites the limitation "the actuating element" in Claim 21, Lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 22 recites the limitation "the cable or the cables" in Claim 22, Lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

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17. Claim 23 recites the limitation "the cable or the cables" in Claim 23, Lines 1-2 and "the gear rack" in Claim 23, Line 2. There is insufficient antecedent basis for this limitation in the claim.

18. Claim 24 recites the limitation "the cable or the cables" in Claim 24, Line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

20. Claim 1-9, 15, 19-20, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kritzer (U.S. Patent# 6382358). Kritzer discloses a device for storing goods, in particular vehicles, the goods being stored on at least one platform 7 and the platform 7 being guided on guides 5 traversable over a traverse path. Means being provided for traverse and the platform 7 being secured against undesired movement by means of a co-operation of safety means arranged at the guide or device and platform. The safety means being indicated by at least one locking unit 1 and at least one locking element 45. Characterized in that the locking unit 1 is rotatable and supported in such a way that the center of gravity of the locking unit 1 is located off-center, so that the locking unit 1 is in continuous active connection with the locking element 45 as long as no power acting against the gravity is brought into the locking unit 1.

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21. Regarding claim 2, Kritzer further discloses the safety means being secured to the platform 23 against undesired downward movement.

22. Regarding claim 3, Kritzer further discloses the safety means being arranged along the total traverse path of the platform 7 against the guide 5 on each position in active connection in order to interrupt the movement of the platform 7.

23. Regarding claim 4, Kritzer further discloses the locking unit 1 is arranged on the platform 23 and the locking element 45 is arranged on at least one of the guides 5.

24. Regarding claim 6, Kritzer further discloses a locking element 45 indicated by a gear rack.

25. Regarding claim 7, Kritzer further discloses a notch 47 is provided as locking unit 1.

26. Regarding claim 8, Kritzer further discloses the side of the notch which faces the locking element 45 has at least one tooth designed in such a way that it can engage positive interlocking into each indentation of the gear rack along the traverse path of the platform 7.

27. Regarding claim 9, Kritzer further discloses the locking unit 1 is held through the power of a power element 51, for example a spring 51, or because of the gravity in continuous active connection with the locking element 45, the locking unit 1 embracing an opening element 53 which acts against the effective direction of the power element, and which is activated only when the platform is moved along the guide.

28. Regarding claim 10, Kritzer further discloses that in order to bring in the adjustment force the locking unit 45 comprises an opening element 53.

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29. Regarding claim 15, Kritzer further discloses an opening element 53 acts through a cable 61 on the locking unit 1 and by means of that brings it out of the active connection with the locking element 45.

30. Regarding claim 19, Kritzer further discloses a cable 9 that runs along the total traverse path of the platform 7 over the deflection roller 37.

31. Regarding claim 20, Kritzer further discloses an actuating element 61 provided for actuating the opening element 53 which is arranged in such a way that the operator can actuate this actuating element 61 from a safety area.

32. Regarding claim 21, Kritzer further discloses the locking unit 45 releases the platform 7 only when the actuating element 61 is actuated.

33. Regarding claim 24, Kritzer further discloses a frame 5 is provided on the device where the cable 9 is arranged.

### ***Claim Rejections - 35 USC § 103***

34. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

35. Claim 11 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kritzer (U.S. Patent# 6382358) in view of Ringel et al. (U.S. Patent# 6039151). Kritzer is silent regarding signal transmitters on the means to traverse the platform that co-operate with the opening element in such a way that the actuating of the opening



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element, which is embraced by the locking unit, is blocked, respectively, prevented, when the usual working conditions on the means for traverse deviate. Ringel et al. teaches a sensor that detects the movement of a piston 2. At unauthorized downward motions of the piston 2, a control 27 switches on a coil 30 by means of a switch 28 to engage brake arms 6. Therefore, it would have been obvious to one of the ordinary skill in the art to incorporate the teachings of Ringel et al. to the locking device of Kritzer to provide additional safety means if the means to traverse the platform deviates from its working conditions.

36. Regarding claim 26, Kritzer is silent on safety means brought into active connection by means of magnetic force. Ringel et al. teaches safety means through an auxiliary braking system activated by means of an electromagnet 10. Therefore, it would have been obvious to one of the ordinary skill in the art to incorporate auxiliary braking system 1 of Ringel et al. to the hydraulic actuator 11 of Kritzer for additional safety means that are easily actuated due to an electrical actuation versus mechanical.

37. Claim 12-14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kritzer (U.S. Patent# 6382358) in view of Fitzroy (U.S. Patent# 289905). Kritzer is silent regarding a connecting link, which is in continuous active connecting with the locking element and has an opening element for opening the active connection. Fitzroy teaches a connecting link H which is in continuous active connecting with the locking element E and has an opening element C for opening the active connection. Therefore, it would have been obvious to one of the ordinary skill in the art to incorporate the

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teachings of Fitzroy to the locking device of Kritzer to provide a simple, cheap, durable, and efficient locking device.

38. Regarding claim 13, Kritzer is silent regarding the power, which is effective against the power element being brought in by a means of a cable or a chain into the locking unit. Fitzroy teaches a chain H effective against the power element W.

Therefore, it would have been obvious to one of the ordinary skill in the art to incorporate the teachings of Fitzroy to the locking device of Kritzer to provide a simple, cheap, durable, and efficient locking device without depending upon spring power for its required movement or operation.

39. Regarding claim 14, Kritzer is silent regarding an opening element formed by a cable and/or chain guided over deflection rollers. Fitzroy teaches a locking unit rotatably on a platform A and an opening element formed by a chain H guided over deflection rollers b and c. The opening element being any means to create slack on the chain H.

Therefore, it would have been obvious to one of the ordinary skill in the art to incorporate the teachings of Fitzroy to the locking device of Kritzer to provide a simple, cheap, durable, and efficient locking device without depending upon spring power for its required movement or operation.

40. Regarding claim 16, Kritzer is silent regarding a locking unit with at least one deflection provided over which a cable is guided in the shape of an "S". Fitzroy teaches a locking unit with deflection rollers a and b provided over which a cable H is guided in the shape of an "S". Therefore, it would have been obvious to one of the ordinary skill in the art to incorporate the teachings of Fitzroy to the locking device of Kritzer to provide a

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simple, cheap, durable, and efficient locking device without depending upon spring power for its required movement or operation.

41. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kritzer (U.S. Patent# 6382358) in view of Naegeli (U.S. Patent# 4531614). Kritzer is silent regarding a removable cover to protect the cable or the cables, the gear rack, and the locking unit. Naegeli teaches the use of a removable cover plate 152 to allow for ready access to the components for maintenance and repair. Therefore, it would have been obvious to one of the ordinary skill in the art to incorporate a removable cover in the system taught by Kritzer to protect the cable or the cables, the gear rack, and the locking unit from unwanted debris as well as allow for ready access for maintenance and repair.

42. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kritzer (U.S. Patent# 6382358) in view of Green (U.S. Patent# 5967443). Kritzer is silent regarding a locking unit indicated by a centrifugal brake, which is actuated automatically by an adjustable speed, which deviates from the normal traverse speed of the platform. Green teaches the use of a centrifugal brake to achieve a steady and often readily determinable, speed of rotation, or to limit the speed of rotation below a level that is considered to be safe in the relevant circumstances. Therefore, it would have been obvious to one of the ordinary skill in the art to make the deflection roller 37 of Kritzer a centrifugal brake 10 taught by Green for additional safety incase the platform deviates from the normal traverse speed.

***Allowable Subject Matter***

43. Claim 17, 18, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

44. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stokes (U.S. Patent# 635521), Isogai (U.S. Patent# 4856618), Taylor (U.S. Patent# 6446757), Fan et al. (U.S. Patent# 5690462).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Pico whose telephone number is (571)272-5589. The examiner can normally be reached on 6:30AM - 3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571)272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink that reads "Kathy Matecki". The signature is written in a cursive, flowing style.

KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600